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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,588	05/17/2002	James T. Hotary	026032-3884	2168

7590 12/10/2003

John M Lazarus  
Foley & Lardner  
Firstar Center  
777 East Wisconsin Avenue  
Milwaukee, WI 53202-5367

EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/030,588

Applicant(s)

HOTARY ET AL.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-21 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 9 is objected to because it includes reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Specifically, claim 9, line 1, recites "A rear seat assembly 10".

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammers.

Hammers discloses a seating assembly (Figure 2) for a vehicle comprising a front seat assembly 1, 2 having a front seat bottom 1, the front seat bottom including a front portion and a rear portion (Figure 2), a rear seat assembly 19, 20 having a rear seat bottom 19, and a track member 6 connectable to a floor portion of the vehicle all of which are well known in the prior art.

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In addition, Hammers discloses the improvement being the seating assembly characterized by an articulation mechanism, generally 10, pivotally coupled to the rear seat bottom and slidably coupled to the track member 6 via members 5, a support member 4 connected to the front seat bottom and connectable to the vehicle, the support member 4 supporting the rear portion of the front seat bottom 1 from the vehicle to provide a storage space beneath the front seat bottom, and the rear seat bottom 19 configured to pivotally move on the articulating mechanism 10 and to slidably move on the track member 6 between a use position (Figure 2) and a stored position (Figure 3) where the rear seat bottom is within the storage space. A front seat back 2 is connected to the front seat bottom 1.

4. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Sparks.

Sparks discloses a seating assembly (Figure 1) for a vehicle A comprising a front seat assembly A' having a front seat bottom, the front seat bottom including a front portion and a rear portion, a rear seat assembly B having a rear seat bottom B, and a track member F connectable to a floor portion of the vehicle all of which are well known in the prior art.

In addition, Sparks discloses the improvement being the seating assembly characterized by an articulation mechanism C, C', pivotally coupled to the rear seat bottom B and slidably coupled to the track member F, a support member "a" connected to the front seat bottom and connectable to the vehicle, the support member "a" supporting the rear portion of the front seat bottom from the vehicle to provide a storage space (Figure 2) beneath the front seat bottom, and the rear seat bottom B configured to pivotally move on the articulating mechanism C, C' and to slidably move on the track member F between a use position (Figure 1) and a stored position

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(Figure 2) where the rear seat bottom is within the storage space. A front seat back A\* is connected to the front seat bottom.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammers as applied to claim 1 above and further in view of Kleinhoffer et al.

Hammers lacks the support member being connectable to a first side panel of the vehicle, and the support member extends from the side panel to the front seat bottom.

Kleinhoffer et al. teach a support member 30 (Figure 3) for a front seat of a vehicle being connectable to a first side panel 51 of the vehicle. The support member extends from the side

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panel to the front seat bottom. A second front seat bottom (inherent, but not shown in Figure 3) is also disclosed. The support member 30 is connected to the second front seat bottom. The support member 30 is connectable to a second side panel 53 of the vehicle, and the support member extends from the first side panel to the second side panel. A center console 18, 19, can be provided wherein the support member is connected to the center console.

It would be obvious to one of ordinary skill in the art at the time the invention was made to have provided the support member, additional front seat bottom, and center console as taught by Kleinhoffer et al. upon the seating assembly of Hammers in order to better support the front seat assembly, to accommodate another passenger in the vehicle, and to allow items of convenience to be stored therein.

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammers as applied to claim 1 above and further in view of the well known prior art.

Hammers lacks a front riser connected to the front portion of the front seat bottom wherein the support member is connected to the rear portion of the front seat bottom and further lacks an adjustment mechanism connected to the front riser.

The well known prior art teaches vehicle seats with front risers connected to front portions of the front seat bottom and additionally teach the use and desirability of adjustment mechanism.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a front riser and adjustment mechanism as taught by the well known prior art upon the front seat assembly of Hammer in order to support the front seat bottom and in

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order to allow a passenger to adjust the longitudinal position of the front seat assembly for desired comfort.

***Allowable Subject Matter***

9. The indicated allowability of claims 1-8 is withdrawn in view of the newly discovered reference(s) to Hammers and Sparks. Rejections based on the newly cited reference(s) are set forth above.

10. Claims 9-21 are allowed.

***Response to Arguments***

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496. The examiner can normally be reached on M-F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-308-3297.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

14. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).

hlg

November 17, 2003

*Hilary Gutman*  
HILARY GUTMAN  
PATENT EXAMINER  
3612  
1211103